IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 14087 of 2004(B)

PETITIONER:

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1. BHAVANI, W/O. VASUIDEVAN KUNJAN,
KATTUKARAYIL, ULLALA, VAIKOM.

2. RATNAMMA, D/O. VASUDEVAN KUNJAN,
KULANGARA, PALAMKADAVU, KULASEKHARAMANGALAM,VAIKOM

3. VIJAYAN, S/O. VASUDEVAN KUNJAN,
CHAKIRIYODU, THOTTAKOM P.O., VAIKOM.

4. INDIRA, D/O. VASUDEVAN KUNJAN,
MOLAM MARUTHUKATIL, POOTHOTTA, ERNAKULAM.

5. HARIDAS, S/O. VASUDEVAN KUNJAN,
VANIBHAVAN, THOTTAKOM P.O., VAIKOM.

6. BABU, S/O. VASUDEVAN KUNJAN,
CHAKIRIYODU, THOTTAKOM P.O., VAIKOM.

7. MOLLY, D/O. VASUDEVAN KUNJAN,
CHAKIRIYODU, THOTTAKOM P.O., VAIKOM.

8. SYAMALA, D/O. VASUDEVAN KUNJAN,
VIJU BHAVAN, KELAKOM P.O., KANNUR.

9. SIVADASAN, S/O. VASUDEVAN KUNJAN,
PRIYA BHAVAN, KAVARAPPADYNADA, VAIKOM.

10. RAJENDRAN, S/O. VASUDEVAN KUNJAN,
KOCHUMADATHIL, UDAYANAPURAM, VADAKKEMURI, VAIKOM.

11. MURALEEDHARAN, S/O. VASUDEVAN KUNJAN,
KATTUKARAYIL, ULLALA, VAIKOM.

12. PRASANNAN, S/O. VASUDEVAN KUNJAN,
KATTUKARAYIL, ULLALA, VAIKOM.

13. SABU, S/O. VASUDEVAN KUNJAN,
KATTUKARAYIL, ULLALA, VAIKOM.

14. THANKAPPAN, S/O. VASUDEVAN KUNJAN,
PONGANPARAYIL, EDAMARUKU P.O., ERATTUPETTA.

BY ADV. SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN

RESPONDENTS:
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1. STATE OF KERALA,
   REPRESENTED BY ITS SECRETARY TO GOVT.,
   EXCISE DEPARTMENT, GOVT. OF KERALA,
   THIRUVANANTHAPURAM.

2. ASSISTANT EXCISE COMMISSIONER,
   EXCISE DIVISION OFFICE, KOTTAYAM.

3. TAHSILDAR, VAIKOM.

4. TAHSILDAR, KANAYANNOOR.

5. TAHSILAR, MEENACHIL.

6. TAHSILDAR, THALASSERY.

7. A.D.SAMKUTTAN (SABU),
   ARACKAL HOUSE, UDAYANAPURAM P.O., VAIKOM.

8. A.D.SHIBU,
   ARACKAL HOUSE, UDAYANAPURAM P.O., VAIKOM.

R7 AND R8 BY ADV. SRI.K.REGHU KOTTAPPURAM
SMT.URSULA FRANCIS
R1 TO R6 BY G.P. SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 TRUE COPY OF THE LETTER DATED 31.12.2003 ISSUED BY THE 2ND RESPONDENT TO COUNSEL FOR THE PETITIONERS.

EXT.P2 TRUE COPY OF THE REVENUE RECOVERY NOTICE IN FORM NO.1 ISSUED TO THE 1ST PETITIONER.

EXT.P2(a) TRUE COPY OF THE NOTICE ISSUED UNDER FORM NO.10 TO THE 1ST PETITIONER.

EXT.P3 TRUE COPY OF THE INTERIM ORDER DATED 30.1.2002 IN CMP 6118 OF 2002 IN OP 3418 OF 2002

RESPONDENTS' EXHIBITS:

EXT.R2(a) TRUE COPY OF LETTER DATED 3.3.2003 OF THE TAHSILDAR, VAIKOM ADDRESSED TO ASST. EXCISE COMMISSIONER, KOTTAYAM.

EXT.R2(b) TRUE COPY OF THE PETITIONS SUBMITTED BY THE PETITIONERS IN THE WRIT PETITION BEFORE THE ASST. EXCISE COMMISSIONER, KOTTAYAM.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 14087 OF 2007

Dated this the 13th day of August, 2007

JUDGMENT

Heard counsel for the petitioner and the Government Pleader. The arrears sought to be recovered are abkari dues due from the licensee who is no more. Petitioners are legal heirs of the deceased defaulter-licensee. Property offered as solvency at the time of taking licence is stated to be under attachment. In any case petitioners' contention that property, whether self-acquired or devolved upon them other than from the licensee, should not be proceeded against has to be upheld and I do so. W.P. is therefore disposed of directing the respondents to identify the property of the defaulter inherited by legal heirs after his death or transferred to legal heirs which are invalid under law, whether it be under the RR Act or TP Act and proceed against the same. The other properties, both movables and immovables of the legal heirs, should not be proceeded against. If any transaction is found to be invalid, notice should be issued to legal heirs and sale should be effected only after hearing the legal heirs and declaring the transaction as invalid.

(C.N.RAMACHANDRAN NAIR)
Judge